

The House Committee on Judiciary offers the following substitute to HB 292:

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 9-11-4 of the Official Code of Georgia Annotated, relating to process in civil practice, so as to provide for service upon persons residing in gated and secured communities; to provide for filing the return of service; to provide for state-wide registration of permanent process servers; to change certain provisions relating to process in civil practice; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 9-11-4 of the Official Code of Georgia Annotated, relating to process in civil practice, is amended in subsection (f) by adding a new paragraph to read as follows:

"(4) SERVICE UPON PERSONS RESIDING IN GATED AND SECURED COMMUNITIES.

(A) As used in this paragraph, the term 'gated and secured communities' means multiple residential or commercial properties, such as houses, condominiums, offices, or apartments, where access to the multiple residential or commercial properties is restricted by a gate, security device, or security attendant that restricts public entrance onto the property; provided, however, that a single residence, farm, or commercial property with its own fence or gate shall not be included in this definition.

(B) Any person authorized to serve process shall be granted access to gated and secured communities for a reasonable period of time for the purpose of performing lawful service of process upon:

(i) Identifying to the guard or managing agent the person, persons, entity, or entities to be served;

(ii) Displaying a current driver's license or other government issued identification which contains a photograph; and

(iii) Displaying evidence of current appointment as a process server pursuant to subsection (m) of this Code section."

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1 (2) Any person seeking to become a process server with authority to serve process for
2 any court of the state shall, before being authorized to act as a permanent process server:

3 (A) Undergo a criminal record check by the Administrative Office of the Courts
4 through the Georgia Crime Information Center and National Crime Information Center;

5 (B) Pass a test to be administered by the Administrative Office of the Courts. The test
6 will measure the applicant's knowledge of state law regarding serving of process and
7 other papers on various entities and persons. The Administrative Office of the Courts
8 shall design said test, promulgate rules and regulations regarding the necessary fee to
9 cover the cost of the test and the administrative expense for processing the application,
10 and determine what constitutes passing under this subsection;

11 (C) Be approved by the Judicial Council of Georgia which shall review the application,
12 test score, criminal record check, and such other information or documentation as
13 required by the council. Upon review, the council shall make a fitness determination
14 in accordance with standards and procedures promulgated by the council as to whether
15 the applicant shall be approved for registration and authorized to act as a process server
16 in this state; and the council's determination shall be provided to the applicant in
17 writing. A copy of the council's determination shall be submitted with any motion
18 requesting appointment as a permanent process server; and

19 (D) Upon the court granting the applicant's motion, swear under oath, in open court
20 or in chambers before the superior court judge granting the motion: 'I do solemnly
21 swear (or affirm) that I will conduct myself as a process server truly and honestly, justly
22 and uprightly, and according to law; and that I will support the Constitution of the State
23 of Georgia and the Constitution of the United States. I further swear (or affirm) that I
24 will not serve any papers or process in any action where I have a financial or personal
25 interest in the outcome of the matter or where any person to whom I am related by
26 blood or marriage has such an interest.'

27 (3) A permanent process server shall be required to renew his or her registration every
28 two years in a manner and at such time as required by the Judicial Council of Georgia.
29 Any permanent process server failing to renew his or her registration as required by the
30 rules and regulations of the council shall be removed from the council's registry and shall
31 no longer be approved to serve as a permanent process server.

32 (4) A permanent process server may be removed from the registry at any time, in
33 accordance with procedures established by the Administrative Office of the Courts.

34 (5) The provisions of this subsection shall not apply to service of summons as provided
35 in Code Section 44-7-51 except to serve the defendant personally."

1 **SECTION 4.**

2 This Act shall become effective on July 1, 2007.

3 **SECTION 5.**

4 All laws and parts of laws in conflict with this Act are repealed.